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3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA
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6 RONALD CHARLES SILVA,
7 Petitioner,
8 v.

9 ISIDRO BACA, *et al.*,
10 Respondents.
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Case No. 3:19-cv-00157-LRH-CBC

ORDER

12 Ronald Charles Silva, a prisoner at the Northern Nevada Correctional Center,
13 initiated this case on March 22, 2019, by filing a petition for writ of habeas corpus
14 pursuant to 28 U.S.C. § 2241 (ECF No. 1-1).

15 Silva did not pay the filing fee for this action, and he did not file an application to
16 proceed *in forma pauperis*. The Court will summarily dismiss this action for that primary
17 reason.

18 Furthermore, the Court has examined Silva's petition, and determines that Silva's
19 claims are not cognizable as federal habeas corpus claims. Silva alleges violations of
20 his constitutional rights with respect to the conditions of his confinement, and he seeks,
21 as remedies, injunctive relief relative to the conditions of his confinement and monetary
22 damages. See "Petition for Writ of Habeas Corpus per 28 U.S.C. 2241(c)(3) on
23 Conditions of Confinement" (ECF No. 1-1). "[T]he essence of habeas corpus is an
24 attack by a person in custody upon the legality of that custody, and ... the traditional
25 function of the writ is to secure release from illegal custody." *Preiser v. Rodriguez*, 411
26 U.S. 475, 493 (1973). "The power of a federal habeas court 'lies to enforce the right of
27 personal liberty' [and] ... [a]s such, a habeas court 'has the power to release' a prisoner,
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1 but 'has no other power.'" *Douglas v. Jacquez*, 626 F.3d 501, 504 (9th Cir.2010)

2 (citation omitted). As the Supreme Court has explained:

3 If a state prisoner is seeking damages, he is attacking something other
4 than the fact or length of his confinement, and he is seeking something
5 other than immediate or more speedy release -- the traditional purpose of
habeas corpus. In the case of a damages claim, habeas corpus is not an
appropriate or available federal remedy.

6 *Preiser*, 411 U.S. at 493; see also *Nelson v. Campbell*, 541 U.S. 637, 646 (2004)

7 ("[D]amages are not an available habeas remedy...."). The Court will, therefore, dismiss
8 this habeas corpus action on this additional ground – that Silva's claims are not
9 cognizable in a federal habeas corpus action, but must be asserted in a civil rights
10 action under 42 U.S.C. § 1983. If Silva wishes to challenge the conditions of his
11 confinement and seek injunctive relief relative to the conditions of his confinement, and
12 monetary damages, he must draft a civil rights complaint using the form provided by the
13 Court, and he must initiate a new action and file such complaint in the new action.

14 **IT IS THEREFORE ORDERED** that this action is dismissed.

15 **IT IS FURTHER ORDERED** that, as reasonable jurists would not find the rulings
16 in this order to be debatable, the petitioner is denied a certificate of appealability.

17 **IT IS FURTHER ORDERED** that the Clerk of the Court shall enter judgment
18 accordingly.

19 **IT IS FURTHER ORDERED** that the Clerk of the Court is directed to send to the
20 petitioner, along with a copy of this order, the approved form for filing a complaint under
21 42 U.S.C. § 1983, instructions for the same, and a copy of his petition in this case (ECF
22 No. 1-1).

23 DATED this 25th day of March, 2019.

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25 
26 LARRY R. HICKS,
27 UNITED STATES DISTRICT JUDGE
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